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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,311	09/11/2003	A. J. Corso	CORA/0002	5409

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STREETS & STEELE  
13831 NORTHWEST FREEWAY  
SUITE 355  
HOUSTON, TX 77040

EXAMINER


PARSLEY, DAVID J

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 02/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

 <b>Office Action Summary</b>	<b>Application No.</b> 10/660,311	<b>Applicant(s)</b> CORSO ET AL.	
	<b>Examiner</b> David J Parsley	<b>Art Unit</b> 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 13 September 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7 and 9-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7 and 9-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12-16-03</u> . | 6) <input type="checkbox"/> Other: _____  |

## **Detailed Action**

### ***Amendment***

1. This office action is in response to applicant's amendment dated 9-13-04 and this action is non-final.

### ***Claim Objections***

2. Claim 10 is objected to because of the following informalities: in line 2 "securing" should be - -secured- -. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 10 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S.

Patent No. 6,014,833 to Benavidez or U.S. Patent No. 6,269,587 to Wallace.

Referring to claim 1, Benavidez and Wallace both disclose a fishing apparatus comprising, a buoyant board-like support member – at 12-16 or 33 or 41 of Benavidez and – at

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24 of Wallace, having at least a pair of opposing gripping apertures or indentations – at 68,69 of Benavidez and – at 36,40 of Wallace, provided therein, the gripping apertures or indentations each being suitably shaped and oriented for hand gripping at or near respective opposing edges of the support member – see for example figure 1 of Benavidez and figure 1 of Wallace, a fish container – at 20-22 of Benavidez and – at 56,58 of Wallace, secured to the support member for holding fish and a first bait container – at 40 of Benavidez and – at 30-32 and see column 4 lines 7-14, secured to the support member for storing bait.

Referring to claim 2, Benavidez and Wallace disclose the support member has a cleat – at 65,66 of Benavidez and – at the handle in figure 1 of Wallace.

Referring to claim 3, Benavidez and Wallace disclose the support member has a securing aperture therethrough for tethering to a user – see proximate 65,66 of Benavidez and – proximate the handle in figure 1 of Wallace.

Referring to claim 10, Benavidez and Wallace disclose a tether – at 65,66 of Benavidez and see the abstract of Wallace, secured at or near one of its ends to the support member, the tether being adapted for being secured at or near the other of its ends to a user – see for example figure 1 of Benavidez and the abstract of Wallace.

Referring to claim 17, Benavidez and Wallace disclose the support member has a fish-holding aperture sized and shaped to receive the fish container – at 20-22 of Benavidez and – at 20,58 of Wallace, therethrough whereby a portion of the fish container extends downwardly beneath the support member – see for example figure 1 of Benavidez and figure 1 of Wallace.

Claims 4, 7, 9, 11-14 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Benavidez.

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Referring to claim 4, Benavidez discloses the support member is filled with an expanded polystyrene material – see for example column 3 lines 37-51.

Referring to claim 7, Benavidez discloses the support member has four gripping indentations provided therein – see for example at 68,69 in figure 1.

Referring to claim 9, Benavidez discloses the support member has four gripping apertures therethrough – see at 68,69 in figure 1.

Referring to claim 11, Benavidez discloses the support member is equipped for measuring the length of a fish – see at 55.

Referring to claim 12, Benavidez discloses a fishing apparatus comprising, a buoyant board-like support member – at 12-16 or 31, or 33 or 41, a fish container – at 20-22, secured to the support member for holding fish – see figure 1, the fish container being equipped with one or more apertures – at 22, of ambient water therethrough, a first bait container – at 14,15,40, secured to the support member for storing bait, the first bait container being equipped with one or more apertures – at 68, for passage of ambient water therethrough, and a first upright gear container – at 14,15, 69, secured to the support member and having a generally tubular shape – see at 69 in figure 1, for supporting elongated fishing gear – see column 4 lines 52-56.

Referring to claim 13, Benavidez discloses a plurality of upright gear containers – at 69, secured to the support member – see figure 1, each of the gear containers having a generally tubular shape for supporting elongated fishing gear – see for example figure 1 and column 4 lines 52-56.

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Referring to claim 14, Benavidez discloses a utility bar – see proximate 40, secured to the support member, the utility bar having a plurality of storage apertures therethrough for receiving fishing gear – see for example figure 1.

Referring to claim 20, Benavidez discloses the support member has a bait-holding aperture sized and shaped to receive the first bait container – at 40 therethrough, whereby a portion of the first bait container extends downwardly beneath the support member – see for example figure 1.

Claims 18-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Wallace.

Referring to claim 18, Wallace discloses the fish container – at 56-58, is a generally tubular-shaped net that permits the submergence of fish disposed therein while fishing – see for example figure 1.

Referring to claim 19, Wallace discloses the net has a mouth that is adjustable between an open configuration and a closed configuration – see for example at 56 in figure 1.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Benavidez or Wallace as applied to claim 1 above, and further in view of U.S. Patent No. 4,918,853 to Bascom

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et al. Benavidez and Wallace both do not disclose the support member has a fluorescent outer surface. Bascom et al. does disclose the support member has a fluorescent outer surface – see for example column 4 lines 19-24. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Benavidez or Wallace and add the fluorescent outer surface of the support member of Bascom et al., so as to allow for the device to be easily visible to the user.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Benavidez as applied to claim 14 above, and further in view of U.S. Patent No. 5,163,694 to Reichel. Benavidez further discloses at least three upright gear containers – at 30,40,68,69, secured to the support member – see for example figure 1. Benavidez does not disclose the utility bar is connected across the three upright gear containers at an elevation above the upper surface of the support member. Reichel does disclose that the containers 16, 18, 22, 38 are at an elevation above the upper surface of the support member (figure 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Reichel to the invention of Benavidez in order to make the tackle, bait, or other stored items more accessible to the angler.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Benavidez as applied to claim 1 above, and further in view of U.S. Patent No. 5,394,639 to Tentler. Benavidez does not disclose the support member is equipped with at least one rudder for stability while fishing, the rudder having at least two flat sides. Tentler does disclose the support member – at 14-20, is equipped with at least one rudder – at 38, for stability while fishing, the rudder – at 38, having at least two flat sides – see for example figures 2-5. Therefore it would have been obvious

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to one of ordinary skill in the art to take the device of Benavidez and add the rudder of Tentler, so as to allow for the device to move more quickly and under more control through the water.

Claims 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benavidez as applied to claim 20 above, and further in view of U.S. Patent No. 4,794,723 to Arnold et al.

Referring to claim 21, Benavidez does not disclose the container is adapted for holding live bait. Arnold et al. discloses the bait container – at 50-66, is adapted for holding live bait – see for example columns 2-5. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Benavidez and add the bait container holding live bait of Arnold et al., so as to allow for the device to be able to maintain live bait for use by the fisherman.

Referring to claim 22, Benavidez does not disclose the bait container is substantially cylindrical and has an openable lid. Arnold et al. does disclose the bait container is substantially cylindrical – see figures 3-4, and has an openable lid – at 52. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Benavidez and add the bait container with cylindrical shape and lid of Arnold et al., so as to allow for the fisherman to easily store and remove fish from the bait container.

Referring to claim 23, Benavidez does not disclose the bait container is made of plastic. Arnold et al. does disclose the bait container is made of plastic – see for example column 5 lines 46-50. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Benavidez and add the bait container made of plastic of Arnold et al., so as to make the device lightweight and durable.

Claims 24-26 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benavidez in view of Wallace.



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Referring to claims 24 and 28, Benavidez discloses a fishing apparatus comprising, a buoyant board-like support member – at 12-16 or 33 or 41, a fish container – at 20-22, secured to the support member for holding fish, the fish container being equipped with one or more apertures – at 22, for passage of ambient water therethrough, a first bait container – at 14,15, 40, secured to the support member for holding bait, the first bait container being equipped with one or more apertures – at 68,69, for passage of ambient water therethrough, and a second container – at 30-31 secured to the support member – see for example figure 1. Benavidez does not disclose the first bait container holds live bait and a second bait container. Wallace does disclose a first bait container 56,58, for holding live bait – see figure 1, and a second bait container – at 30,32 – see figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Benavidez and add the second bait container of Wallace, so as to allow for the device to hold multiple types of bait for catching multiple types of fish.

Referring to claim 25, Benavidez as modified by Wallace further discloses the first bait container – at 56,58 of Wallace, is adapted for holding live bait and the second bait container – at 30,32 of Wallace is adapted for holding artificial bait – see for example figure 1 of Wallace.

Referring to claim 26, Benavidez as modified by Wallace further discloses the second bait container – at 30,32 of Wallace, is secured to the upper surface of the support member – see figure 1 of Wallace, and includes at least one box – at 30,32, having an openable lid – see figure 1, and a plurality of bait holding compartments – see for example figure 1 of Wallace. Benavidez as modified by Wallace does not disclose the second bait container is plastic, however it would have been obvious to one of ordinary skill in the art to take the device of Benavidez as modified

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by Wallace and add the container made of plastic, so as to allow for the device to be both lightweight and durable.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Benavidez as modified by Wallace as applied to claim 25 above, and further in view of U.S. Patent No. 5,802,760 to Campbell. Benavidez as modified by Wallace does not disclose the second bait container is secured to the upper surface of the support member and includes a plurality of stacked plastic boxes each having an openable lid and a plurality of bait holding compartments. Campbell does disclose the second bait container is secured to the upper surface of the support member and includes a plurality of stacked plastic boxes – at 5-9, each having an openable lid and a plurality of bait holding compartments – see for example figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Benavidez as modified by Wallace and add the stacked compartments of Campbell, so as to allow for the device to hold more fishing equipment.

### *Response to Arguments*

5. Regarding claims 1-23, Benavidez US 6014833, shows apertures in two containers for allowing passage of water – at 22 and at 68,69 as seen in figure 1.

Applicant's arguments with respect to claims 24-28 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to fishing containers in general:

U.S. Pat. No. 566,903 to Gieschen – shows bait container

U.S. Pat. No. 4,271,624 to Peluso – shows bait container

U.S. Pat. No. 4,297,804 to Weld – shows bait container

U.S. Pat. No. 4,671,008 to Lindemood – shows bait container

U.S. Pat. No. 5,092,263 to Hutchison et al. – shows bait container

U.S. Pat. No. 5,117,577 to Burghoff – shows bait container

U.S. Pat. No. 6,729,066 to Howley – shows bait container

U.S. Pat. No. 6,785,999 to Spada – shows bait container

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J Parsley whose telephone number is (703) 306-0552. The examiner can normally be reached on 9hr compressed.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (703) 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*DP*  
David Parsley  
Patent Examiner  
Art Unit 3643

*Peter M. Poon*  
**PETER M. POON**  
**SUPERVISORY PATENT EXAMINER**  
*2/24/05*